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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

FILED

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SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

Salvador MONTES-Diaz,

Defendant

Magistrate Docket No.

COMPLAINT FOR VIOLATION OF:

Title 8, U.S.C., Section 1326
Deported Alien Found in the
United States

DEPUTY

The undersigned complainant, being duly sworn, states:

On or about **March 29, 2008** within the Southern District of California, defendant, **Salvador MONTES-Diaz**, an alien, who previously had been excluded, deported and removed from the United States to **Mexico**, was found in the United States, without the Attorney General or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States Code, Sections 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States; in violation of Title 8 United States Code, Section 1326.

And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.


SIGNATURE OF COMPLAINANT

James Trombley
Senior Patrol Agent

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS 1st DAY OF APRIL 2008.


Anthony J. Battaglia
UNITED STATES MAGISTRATE JUDGE

CONTINUATION OF COMPLAINT:**Salvador MONTES-Díaz****PROBABLE CAUSE STATEMENT**

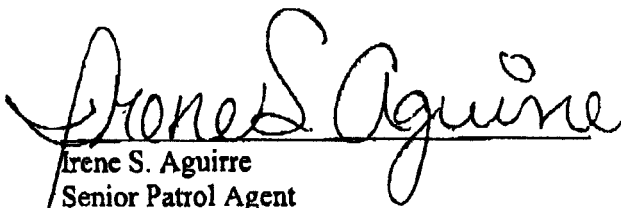
I declare under the penalty of perjury that the following statement is true and correct:

On March 29, 2008, I, Border Patrol Agent K. Smith, was performing uniformed line watch duties in the Chula Vista Border Patrol Station area of responsibility. At approximately 3:45 a.m. an Agent using an infra-red camera observed and reported a group of nine suspected illegal aliens near an area known as "The Valley." This area is approximately 1 mile east and 5 miles north of the United States/Mexico International Boundary near the Otay Mesa Port of Entry. I responded to the area and began searching a construction site north of where the subjects were last seen. At approximately 4:00 a.m., I located the nine subjects hiding behind a storage trailer. I approached the nine subjects and identified myself as a United States Border Patrol Agent and questioned each subject as to their citizenship and nationality. The nine subjects, including the defendant later identified as Salvador MONTES-Díaz, answered "Mexico." I then asked all nine subjects if they had any immigration documents allowing them to enter or remain in the United States legally. All nine subjects answered "No." At approximately 4:10 a.m., the defendant and the other eight individuals were arrested and transported to the Chula Vista Border Patrol Station for processing.

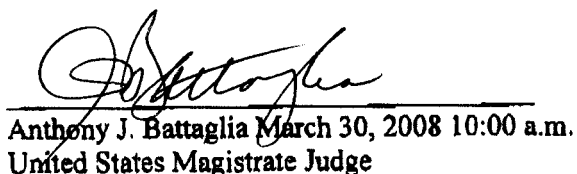
Routine record checks of the defendant revealed a criminal and immigration history. The defendant's record was determined by a comparison of his criminal record and the defendant's current fingerprint card. Official immigration records of the Department of Homeland Security revealed the defendant was previously deported to Mexico on March 17, 2008 through San Ysidro, California. These same records show that the defendant has not applied for permission from the Attorney General of the United States or his designated successor, the Secretary of the Department of Homeland Security, to return to the United States after being removed.

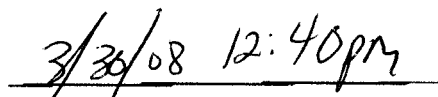
The defendant was advised of his Miranda rights and was willing to answer questions without an attorney present.

Executed on March 30, 2008 at 10:00 a.m.


Irene S. Aguirre
Senior Patrol Agent

On the basis of the facts presented in the probable cause statement consisting of 1 page(s), I find probable cause to believe that the defendant named in this probable cause statement committed the offense on March 29, 2008, in violation of Title 8, United States Code, Section 1326.


Anthony J. Battaglia March 30, 2008 10:00 a.m.
United States Magistrate Judge


3/30/08 12:40pm